

MINUTE ITEM

This Calendar Item No. C36
was approved as Minute Item
No. 56 by the State Lands
Commission by a vote of 3
to 0 at its 8-3-94
meeting.

MINUTE ITEM

C36

W503.1605

Crow

Rump

Kiley

CONSIDER SETTLEMENT OF LITIGATION AND BOUNDARY LINE AGREEMENT
TOGETHER WITH THE PURCHASE OF A PORTION OF PROPERTY
AS KAPILOFF LAND BANK TRUSTEE
WITH ADDITIONAL RIGHTS FOR FUTURE ACQUISITION
AT CHICORY BEND, SACRAMENTO RIVER, CITY OF SACRAMENTO

Calendar Item C36 was pulled and added to the end of Regular Calendar as Calendar Item 56. Calendar Item C36 is the same as Calendar Item 56.

James Trout, Assistant Executive Officer of the State Lands Commission, explained that this action will extinguish state claims of implied dedication to a public use.

The Commission approved the item by a vote of 3 to 0.

A 9

S 6

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CALENDAR ITEM

C36

A 9
S 6

08/03/94
W 503.1605
AD214 Crow
Rump
Kiley

**CONSIDER SETTLEMENT OF LITIGATION AND BOUNDARY LINE AGREEMENT
TOGETHER WITH THE PURCHASE OF A PORTION OF PROPERTY
AS KAPILOFF LAND BANK TRUSTEE
WITH ADDITIONAL RIGHTS FOR FUTURE ACQUISITION AT
CHICORY BEND, SACRAMENTO RIVER, CITY OF SACRAMENTO**

In 1989, litigation was brought against the State to quiet title to certain property within and adjacent to the levee along the Sacramento River in the City of Sacramento at a location commonly known as Chicory Bend. The litigation is now entitled Lovelace, et al. v. State of California (Sacramento County Superior Court No. 506331), and is now pending in the California Supreme Court, case number S037729, to review a December 20, 1993 decision of the Court of Appeal, Third Appellate District, case number 3 Civ. C009815, entitled State ex rel. State Lands Commission v. Superior Court (Lovelace). In the litigation, the State has contended that all or a part of the subject property lies waterward of the ordinary high water mark and is owned by the State as sovereign property. The plaintiffs have contended that all of the subject property lies landward of the ordinary high water mark and is land owned in fee by plaintiffs free of any interest of the State based upon its sovereignty.

Continued litigation to resolve the boundary of sovereign land interests at the subject location may require, among other things, extensive and costly testimony regarding the Sacramento River, its use, hydrology, boundary history, and the effect of artificial influences on the property at issue. Such litigation will be lengthy and of uncertain result. The staff of the Commission and the Office of the Attorney General believe that the Boundary Line Agreement and Settlement of Claims which is the subject of this item is in the best interest of both the State and plaintiffs in the litigation, a belief in which plaintiffs concur.

The proposed Boundary Line Agreement and Settlement of Claims, when implemented, would accomplish the following:

1. It would result in an agreed ordinary high water line boundary between uplands owned in fee by plaintiffs and sovereign lands owned in fee by the State. The line would fluctuate and be ambulatory.

CALENDAR ITEM NO. C36 (CONT'D)

2. It would provide that the Commission, acting as Kapiloff Land Bank Trustee, would purchase, for the sum of \$60,000, that parcel referred to in the Agreement as the "Kapiloff Parcel".
3. It would provide for a public access easement across those lands to be retained by plaintiff to benefit those lands confirmed in or acquired by the State.
4. The State would quitclaim to Lovelace any interest it may have or acquire in an easement known as "the Tulley Easement".
5. It would provide that the pending litigation would be remanded by the Supreme Court to the Sacramento Superior Court with directions to dismiss the action with prejudice, pursuant to stipulation of the parties.
6. The Agreement is contingent on the Parties obtaining a Supreme Court Order which dismisses review and requires that the Court of Appeals decision will remain unpublished.

The parties also contemplate that the State may acquire, by later agreement, a right of first refusal to purchase any or all of the remaining property owned by plaintiffs at the subject site.

EXHIBITS:

- A. Site Map
- B. Description of Agreed Boundary
- C. Description of Easement

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER TO ENTER INTO THE BOUNDARY LINE AGREEMENT AND SETTLEMENT OF CLAIMS IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.
3. ACTING AS LAND BANK TRUSTEES, AUTHORIZE THE PURCHASE OF THE PARCEL DESCRIBED AS THE "KAPILOFF PARCEL" IN THE SUBJECT AGREEMENT FOR THE SUM OF \$60,000.

CALENDAR ITEM NO. C36 (CONT'D)

4. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, EXECUTION OF SUBSEQUENT DOCUMENTS AND AGREEMENTS, DOCUMENT RECORDING AND COURT ACTIONS AND APPEARANCES.

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End of Agreed Boundary Line

SACRAMENTO RIVER

AGREED BOUNDARY LINE

RIVERSIDE ESTATES UNIT NO. 1
45 B.M. 22

SEAMAS AVE.

RIVERSIDE ESTATES UNIT NO. 2
45 B.M. 3

Beginning of Agreed Boundary Line

- | | |
|----------------------|--|
| 1. S20.40E 26.00 | 16. N11.1805W 301.25 |
| 2. S69.20W 84.55 | 17. N11.1549E 129.08 |
| 3. S25.52E 113.27 | 18. N18.5743E 145.97 |
| 4. S28.36E 201.00 | 19. N28.5905E 131.94 |
| 5. S40.23E 194.00 | 20. N26.3821E 71.59 |
| 6. S49.09E 43.86 | 21. N33.5444E 137.46 |
| 7. S47.1150W 127.90 | 22. S35.2425E 234.78 |
| 8. N47.1426W 116.31 | 23. S18.19W 26.33 |
| 9. N41.5554W 104.62 | 24. S15.12W 92.00 |
| 10. N38.4525W 143.20 | 25. S03.15E 300.00 |
| 11. N44.2209W 160.51 | 26. S01.11W 98.00 |
| 12. N32.2578W 167.68 | 27. S08.07E 99.00 |
| 13. N58.2835W 213.33 | 28. S04.31E 100.00 |
| 14. N25.4550W 105.66 | 29. S16.0750E 46.05 |
| 15. N15.1243W 81.48 | 30. N84.20E 27.47 |
| | 31. S22.00E 136.13 |
| | 32. C1 Left, Radius= 30.00
Prg= S66.2116E Dist= 41.95 |
| | 33. S20.40E 26.00 |

Beginning at a found 1/2 inch iron pipe marking the intersection of the centerline of Seamas Avenue and the easterly line of Lot D as shown on the Official Plat of Riverside Estates Unit No. 2, filed in the office of the County Recorder of Sacramento County on February 18, 1957, in Book 46 of Maps, Map No. 3; thence South 20° 40' East 26.00 feet; thence South 69° 20' West 84.55 feet to the Westerly line of Riverside Estates Unit No. 2; thence South 25° 52' East 113.27 feet; thence South 28° 36' East 201.00 feet; thence South 40° 23' East 194.00 feet; thence South 48° 09' East 43.86 feet ; thence South 47° 11' 50" West 127.90 feet; thence leaving the line of Riverside Estates Unit No. 2, continuing along the AGREED BOUNDARY LINE the following fourteen courses:

1. North 47° 14' 26" West 116.31 feet;
2. North 41° 55' 54" West 104.62 feet;
3. North 38° 45' 25" West 143.20 feet;
4. North 44° 22' 09" West 160.51 feet;
5. North 32° 25' 38" West 167.68 feet;
6. North 38° 28' 35" West 213.33 feet;
7. North 25° 45' 50" West 105.66 feet;
8. North 15° 12' 43" West 81.48 feet;
9. North 11° 18' 05" West 301.25 feet;
10. North 11° 15' 49" East 129.08 feet;
11. North 18° 57' 43" East 145.97 feet;
12. North 28° 59' 05" East 131.94 feet;
13. North 26° 38' 21" East 71.59 feet;
14. North 33° 54' 44" East 137.46 feet to the end of the Agreed Boundary Line; thence

South 35° 24' 25" East 254.78 feet to the Southwest corner of Lot 83 as shown on the Official Plat of Riverside Estates Unit No. 1, filed in the office of the County Recorder of Sacramento County on October 4, 1956, in Book 45 of Maps, Map No. 22; thence South 18° 19' West 26.33 feet; thence South 15° 12' West 92.00 feet; thence South 3° 15' East 300.00 feet; thence South 1° 11' West 98.00 feet; thence South 8° 07' East 99.00 feet; thence South 4° 31' East 100.00 feet; thence South 16° 03' 50" East 46.05 feet; thence North 84° 20' East 57.47 feet; thence South 22° 00' East 136.13 feet; thence along a tangent curve concave to the Northeast, having a radius of 30.00 feet, a cord of South 66° 21' 16" East 41.95 feet; thence South 20° 40' East 26.00 feet to the point of beginning.

EXHIBIT B

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Beginning at the intersection of the southerly line of Seamas Avenue and the southerly line of Lot D as shown on the Official Plat of Riverside Estates Unit No. 2, filed in the office of the County Recorder of Sacramento County on February 18, 1957, in Book 46 of Maps, Map No. 3, being a ten foot easement parallel and northerly of the southerly line of Lot D; thence South 69° 20' West 84.55 feet to the Westerly line of Riverside Estates Unit No. 2; thence continuing South 69° 20' West to the crown of the easterly levee of the Sacramento River; thence southerly along the crown of the levee to the south end of the parcel.

EXHIBIT C

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